

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MITCHELL KEITH GOODRUM,

Plaintiff,

v.

OVERLAND HOTEL AND CASINO, *et al.*,

Defendants.

Case No. 3:24-cv-00009-MMD-CLB

ORDER

Pro se Plaintiff Mitchell Goodrum filed an application to proceed *in forma pauperis* (“IFP”) (ECF No. 4), a motion for leave to file a civil rights complaint (ECF No. 1-1 at 1), and a civil rights complaint under 42 U.S.C. § 1983 (ECF No. 1-1 at 2-13 (“Complaint”). Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Carla L. Baldwin, recommending that the Court grant Plaintiff’s IFP application, dismiss his Complaint with prejudice, and deny his motion for leave to file a civil rights complaint as moot. (ECF No. 5.) Objections to the R&R were due February 26, 2024. (See *id.*) To date, Goodrum has not objected to the R&R. For this reason, and as further explained below, the Court will adopt the R&R in full and will dismiss this action with prejudice.

Because there was no objection, the Court need not conduct *de novo* review, and is satisfied that Judge Baldwin did not clearly err. See *United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.”) (emphasis in original).

First, as to Plaintiff’s IFP application, the Court agrees with Judge Baldwin that Goodrum has demonstrated his inability to pay the filing fee. (ECF No. 5 at 1-2.) See 28 U.S.C. § 1915(a)(1); LSR 1-1. The Court thus grants the IFP application (ECF No. 4).

1 Judge Baldwin next screens the Complaint under 28 U.S.C. § 1915A. A complaint
2 in an IFP action is subject to dismissal when the action is frivolous or malicious, fails to
3 state a claim upon which relief may be granted, or seeks monetary relief against a
4 defendant who is immune from such relief. See 28 U.S.C. § 1915A(b). Allegations in pro
5 se complaints are “held to less stringent standards than formal pleadings drafted by
6 lawyers[.]” *Hughes v. Rowe*, 449 U.S. 5, 9 (1980) (internal quotation marks and citation
7 omitted). Judge Baldwin recommends dismissal because Goodrum names only private
8 actors—Overland Hotel and Casino, owner David Barkley, and employee Deanna
9 Douglas—in his Section 1983 Complaint. (ECF No. 5 at 3-4.) Goodrum previously filed a
10 nearly identical lawsuit involving the same defendants and same facts and circumstances
11 in September 2020. See *Goodrum v. Overland Hotel and Casino, et. al.*, 3:20-cv-00542-
12 MMD-WGC at ECF Nos. 4, 5, 6. In that case, the Court adopted an R&R dismissing
13 Goodrum’s Section 1983 claims with prejudice because Defendants are private actors,
14 not acting under color of state law. See *id.* at ECF No. 5. The Court also dismissed
15 Goodrum’s negligence state law claim without prejudice, to allow Goodrum to pursue that
16 claim in state court. See *id.* Because the claims raised in Goodrum’s Complaint in the
17 current action are directly related to those already dismissed by the Court in the earlier
18 action, the Court agrees with Judge Baldwin that the new claims are improperly raised
19 and should be dismissed as frivolous. (ECF No. 5 at 4.) See § 1915(e); *Cato v. United*
20 *States*, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) (noting that courts may dismiss under §
21 1915 a complaint that merely repeats pending or previously litigated claims).

22 It is therefore ordered that Judge Baldwin’s Report and Recommendation (ECF
23 No. 5) is accepted and adopted in full.

24 It is further ordered that Plaintiff’s IFP application (ECF No. 4) is granted.

25 It is further ordered that Goodrum is not required to pay an initial installment fee.
26 However, the full filing fee will still be due under 28 U.S.C. § 1915, as amended by the
27 Prison Litigation Reform Act.

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1 It is further ordered that the Nevada Department of Corrections is directed to pay
2 to the Clerk of the United States District Court, District of Nevada, 20% of the preceding
3 month's deposits to the account of Mitchell Keith Goodrum, #1213846 (in months that the
4 account exceeds \$10.00) until the full \$350.00 filing fee has been paid for this action.

5 The Clerk of Court is further directed to file the Complaint (ECF No. 1-1 at 2-13).

6 It is further ordered that Plaintiff's Complaint (ECF No. 1-1 at 2-13) is dismissed
7 with prejudice.

8 It is further ordered that Plaintiff's motion for leave to file a civil rights complaint
9 (ECF No. 1-1) is denied as moot.

10 The Clerk of Court is directed to enter judgment accordingly and close this case.

11 DATED THIS 8th Day of March 2024.

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14 MIRANDA M. DU
15 CHIEF UNITED STATES DISTRICT JUDGE
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